



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
WWW.USPTO.GOV

Paper No. None

LEVISOHN, BERGER & LANGSAM, LLP  
805 THIRD AVENUE  
19TH FLOOR  
New York NY 10022

**COPY MAILED**

**JUN 06 2005**

In re Application of  
Robert John Colver  
Application No. 09/601,810  
Filed: August 3, 2000  
Attorney Docket No.: 1518.005  
Title: MODULAR BUILDING UNIT

**OFFICE OF PETITIONS**

DECISION ON PETITION UNDER  
37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)<sup>1</sup>, filed March 8, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit an Appeal Brief within two months of the filing of the Notice of Appeal on May 4, 2004, pursuant to 37 C.F.R. §1.192. No extensions of time under 37 C.F.R. §1.136 were received. Accordingly, the above-identified application became abandoned on August 5, 2004. A Notice of Abandonment was mailed February 25, 2005.

An Appeal Brief was filed on August 3, 2004, and Petitioner has requested that the petition fee be waived. The petition fee cannot be waived, as petition fees are jurisdictional. The petition cannot be treated as a petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 (which does not have a petition fee associated with it), as the notice of abandonment was mailed more than two months prior to the filing of this petition.

With the petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. The fee associated with the filing of an Appeal Brief has been charged to Petitioner's Deposit Account, as authorized in the petition. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3600 for further processing. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

**Paul Shanowski**  
Senior Attorney  
Office of Petitions

United States Patent and Trademark Office

<sup>1</sup> A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.